

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS

MARTIN J. WALSH,)
Secretary of Labor,)
United States Department)
of Labor,)
Plaintiff,)
vs.) No. 2021 CV 56
DAYEMI ORGANIZATION,)
INC., d/b/a LONGBRANCH)
CAFE AND BAKERY, an)
Illinois Corporation,)
and ELAINE RAMSEYER)
GREENBERG, an)
individual,)
Defendants.)

The discovery deposition of
ELAINE RAMSEYER GREENBERG, taken in the
above-entitled cause, before Trisha A. Rankin, a
Certified Shorthand Reporter in the State of
Illinois, on September 30th, 2021, at the hour
of 9:00 a.m., via videoconference, pursuant to
notice.

Reported by: Trisha A. Rankin, CSR
CSR License No.: 084.004833

1 APPEARANCES:

2 OFFICE OF THE SOLICITOR
3 US DEPARTMENT OF LABOR, by
4 MS. ELISABETH SIMCOX NOLTE,
5 230 South Dearborn Street
6 Room 844
7 Chicago, Illinois 60604
8 (312) 353-7837
9 nolte.elisabeth.p@dol.gov

10 Representing the Plaintiff;

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12 RHODE LAW FIRM, by
13 MS. SHARI R. RHODE,
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18 Representing the Defendants.
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I N D E X

WITNESS EXAMINATION

ELAINE RAMSEYER GREENBERG

By Ms. Nolte 4

By Ms. Rhode 135

E X H I B I T S

NUMBER IDENTIFICATION

ELAINE RAMSEYER GREENBERG Deposition

Exhibit 1 7

Exhibit 2 7

Exhibit 3 26

Exhibit 4 29

Exhibit 5 82

Exhibit 6 111

Exhibit 7 115

Exhibit 8 123

1 THE REPORTER: Parties are present via
2 videoconference to take the discovery deposition
3 of Elaine Ramseyer. The deposition is being
4 taken by means of videoconferencing and the oath
5 will be administered remotely by the court
6 reporter pursuant to Governor Pritzker's
7 executive order 2020-14.

8 will all parties present please state
9 your name and agreement with the procedure?

10 MS. NOLTE: Good morning. This is
11 Elisabeth Nolte for the Secretary of Labor. And
12 I am in agreement with the procedure.

13 MS. RHODE: And I'm Shari Rhode. I'm here
14 for the defendants. And I agree to the
15 procedures.

16 THE WITNESS: And I'm Elaine Ramseyer
17 Greenberg. I'm the defendant.

18 ELAINE RAMSEYER GREENBERG,
19 having been first duly sworn, was examined and
20 testified as follows:

21 EXAMINATION

22 BY MS. NOLTE:

23 Q. Good morning, again. My name is
24 Elisabeth Nolte. I'm an attorney for the

1 dishwashers?

2 A. Five percent.

3 Q. And I think you had touched on this a
4 bit previously, but who determined the amount,
5 that five percent amount that dishwashers
6 received?

7 A. The servers and baristas who were
8 receiving the tips determined that.

9 Q. At what point in time was that
10 determined?

11 A. It was a long standing practice. It
12 was determined -- well, when we -- as I said, we
13 built the business up slowly. When we added the
14 dishwashers then it was determined, well, we
15 should give them a little something.

16 And then as the kitchen got busier and
17 busier -- you see, we used to not even have
18 food. And then when we re-did the kitchen and
19 added the food, then the kitchen -- people
20 started coming in and wanting the food.

21 So that's where we bought the second
22 building and started the Bakery. We didn't even
23 have room to bake anymore. So that's why we did
24 the offsite thing. So when the food thing grew

1 it was like -- it was -- when you say when, I
2 don't know exactly when.

3 But the decision was made to not only
4 give the dishwasher a little something but you
5 give the cooks a little something as well. I'm
6 not being deliberately vague. I'm just trying
7 to describe a fifteen year process. And it's
8 hard to put it on a timeline and say, oh, this
9 is when that occurred.

10 Q. I appreciate that. And I understand.
11 That is very helpful information. Could you
12 give like an approximate maybe year, around
13 then, as to when the dishwasher position and the
14 cook position was added?

15 A. I'm going on ballpark, fifteen years.

16 Q. Okay. That's helpful. So during that
17 time, since the decision was made to give a
18 portion of the tips, the five percent portion to
19 the dishwasher, has that amount ever been -- the
20 five percent amount ever been discussed,
21 changed? The five percent amount specifically.

22 A. It was -- this -- the question of
23 whether to tip pool and how to divide the tips
24 was discussed numerous times over time. Again,

1 it's a fifteen year period. But it was never
2 changed.

3 Q. So I want to talk more about those
4 discussions in a minute. But just to I guess
5 cover the basics before we dive into that, cooks
6 also received tips from the tip pool, correct?

7 A. Correct.

8 Q. And was that amount also five percent?

9 A. Collectively, yes. Not each. It
10 wasn't that each cook that got five percent.
11 They pooled as well.

12 Q. The five percent was divided amongst
13 the cooks who had worked, is that right?

14 A. Correct.

15 Q. And then the remainder of the tip pool,
16 was that distributed to servers and baristas?

17 A. Yes. Ninety percent was then divided
18 equally among them.

19 Q. So besides the dishwashers, cooks,
20 servers, and baristas that we have discussed,
21 did anyone else get paid from the tip pool,
22 receive payments from the tip pool?

23 A. We had a brief time where we had a
24 hostess when it was super busy. And the hostess